

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

MIGUEL VILLANUEVA, et al.,

Plaintiffs,

v.

CITY OF VISALIA, et al.,

Defendants.

Case No.: 1:23-cv-00757 JLT BAM

**ORDER GRANTING DEFENDANTS'
UNOPPOSED MOTION TO DISMISS AND
DIRECTING CLERK OF COURT TO CLOSE
CASE**

(Doc. 19)

Miguel Villanueva, Aurora Villanueva, Esmeralda Alvarez Martinez, and Emanuel Villanueva allege that in the early hours of August 23, 2021, while lawfully cleaning a business property as part of their employment, six Visalia police officers¹ entered the building with firearms drawn and detained Plaintiffs for over thirty minutes. (*See generally* Doc. 15.) Plaintiffs seek to hold the City of Visalia, Visalia Police Department, and the six officers liable for deprivation of their civil rights pursuant to 42 U.S.C. § 1983. (*Id.*)

Defendants move for judgment on the pleadings under Federal Rule of Civil Procedure 12(c) and dismissal of Plaintiffs' First Amended Complaint under Rule 12(b)(6). (*See* Doc. 19.) They first argue that the allegations against the Visalia Police Department and the City of Visalia are "indistinguishable" and as such, the Department should be dismissed as a duplicative

¹ Plaintiffs identify these officers as Antonio Mattos, Sergio Pineda, Lisa Chapa, Marcus Henry, James Cummings, and Chris Fernandes. (*See* Doc. 15 at 3 ¶ 9.)

defendant. (Doc. 19-1 at 10.) Defendants contend that municipal police departments are generally not considered “persons” within the meaning of § 1983 and that “[c]ourts routinely dismiss police departments as duplicative when the municipality is also a defendant to the same claims, and when the claims arise from the same facts as to both defendants.” (*Id.* at 10-11.) Defendants cite case law supporting this position. (*See id.*)²

Defendants also argue the City of Visalia should be dismissed as the FAC fails to allege facts showing the City engaged in unconstitutional conduct. (*See* Doc. 19-1 at 12.) Specifically, they contend the FAC “is devoid of any facts that would indicate, much less demonstrate, either: (1) ‘a longstanding practice or custom which constitutes the standard operating procedure of the local government entity’; (2) a ‘widespread practice that, although not authorized by written law or express municipal policy, is so permanent and well-settled as to constitute a custom or usage with the force of law’; or (3) that ‘an official with final policy-making authority ratified [one of the officers’] unconstitutional decision or action and the basis for it.’” (*Id.* at 12-13, quoting *Price v. Sery*, 513 F.3d 962, 966 (9th Cir. 2008); *City of St. Louis v. Praprotnik*, 485 U.S. 112, 127 (1988); *Gillette v. Delmore*, 979 F.2d 1342, 1346-47 (9th Cir. 1992).)

Defendants next assert that to the extent Plaintiffs attempt to state a Fourth Amendment claim against the individual officers for unreasonable seizure, the alleged facts fail to identify the deprivation of a constitutional right. (Doc. 19-1 at 14-15.) For this reason, Defendants argue that

² *United States v. Kama*, 394 F.3d 1236, 1239-40 (9th Cir. 2005) (Ferguson, J., concurring) (explaining that municipal police departments are generally not considered “persons” within the meaning of 42 U.S.C. § 1983); *Sanders v. Aranas*, 2008 WL 268972, at *3 (E.D. Cal. Jan. 29, 2008) (“Fresno Police Department is not a proper defendant because it is a subdivision of the City of Fresno”); *Brockmeier v. Solano County Sheriff’s Dep’t.*, 2006 WL 3760276, at *4 (E.D. Cal. Dec. 18, 2006) (finding that sheriff’s department is a municipal department and not a proper defendant for purposes of plaintiff’s § 1983 claims); *Vance v. County of Santa Clara*, 928 F. Supp. 993, 995-96 (N.D. Cal. 1996) (“Naming a municipal department as a defendant is not an appropriate means of pleading a § 1983 action against a municipality”) (quoting *Stump v. Gates*, 777 F. Supp. 808, 816 (D. Colo. 1991), *aff’d*, 986 F.2d 1429 (10th Cir. 1993)); *Herrera v. City of Sacramento*, 2013 WL 3992497, at *2 (E.D. Cal. Aug. 2, 2013) (“Because the Sacramento Police Department is a department of the City, it is redundant to name both.”); *Wade v. Fresno Police Dep’t.*, 2010 WL 2353525, at *4 (E.D. Cal. June 9, 2010) (holding a police department is not a “person” under § 1983); *Brouwer v. City of Manteca*, 2008 WL 2825099, at *3 (E.D. Cal. July 21, 2008) (“Because Defendant Manteca Police Department is a subdivision of Defendant City of Manteca, it is an unnecessary duplicative Defendant, and it will be dismissed.”); *Daniel v. City of Glendale*, 2015 WL 5446924, at *3 (C.D. Cal. Mar. 19, 2015) (dismissing § 1983 and state law claims against a police department as redundant to the claims against the city).

1 Plaintiffs are foreclosed from asserting a Fourteenth Amendment claim. (*Id.* at 15.) Finally,
2 Defendants contend that even if the FAC states a valid claim, the officers are entitled to qualified
3 immunity.

4 Defendants' motion to dismiss was filed on December 13, 2023. (Doc. 19.) Pursuant to
5 Local Rule 230(c), any opposition was due December 27, 2023. Plaintiffs did not file an
6 opposition to the motion. Therefore, the Court deems the motion unopposed. *See* L.R. 230(c) ("A
7 failure to file a timely opposition may also be construed by the Court as a non-opposition to the
8 motion."). Considering the non-opposition and for the reasons set forth in Defendants' motion,
9 the motion to dismiss is **GRANTED**. The Clerk of Court is directed to enter judgment in favor of
10 Defendants and close the case.

11
12 IT IS SO ORDERED.

13 Dated: **March 25, 2024**


UNITED STATES DISTRICT JUDGE